IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.887 OF 2002.

Hirabai Bhimrao Deshmukh ..Appellant

Versus

Nivrutti Trimbak Kadam
& Ors. ..Respondents

Mr.P.N.Joshi for the appellant.

Mr.Milind Satheye for the respondent No.1.

CORAM: S.R.SATHE, J.

DATE : 26th June, 2005

P.C.

1. Heard the learned Advocate for the Appellant.

2. The suit land which is agricultural land bearing Gut No.295 admeasuring 2H 8R, situated at Village Neurgaon, Tal: Yeole, District Nashik was initially owned by one Balinath Tatya Kadam. After his death, his two wives namely Sonubai and Gayabai inherited the said property. In the year 1966 Sonubai and Gayabai had leased out the said land to Defendants for a period of 30 years on annual rent of Rs.66.50p. Thereafter the Defendants took steps to delete the names of the real owners. Hence the Plaintiffs filed

Regular Civil Suit No.344 of 2000 and prayed for declaration that Defendants have limited tenancy right in the suit property and sought further consequential reliefs. The defendants opposed the suit claim and denied the Plaintiff's ownership. The trial Court, after considering the evidence adduced by the parties decreed the suit in Plaintiff's favour.

3. The Defendants filed Civil Appeal No.206 of 1999. The said appeal was allowed and the First Appellate Court held that the declaration sought by the Plaintiff was outside the jurisdiction of Civil Court and therefore, has dismissed the Plaintiff's suit.

4. Being aggrieved by the above order, the Original Plaintiffs have filed the present appeal. From the perusal of the judgment of the First Appellate Court it is very clear that the First Appellate Court has rightly considered the real issue in holding the matter and has correctly held that Civil Court has no jurisdiction to decide the tenancy rights of the Defendants. The First Appellate Court, therefore, held that the declaration sought was outside the scope of Civil Courts Jurisdiction.

5. The finding recorded by the First Appellate

Court appears to be legal and correct. There is no error of law nor there is any question of perverse finding of fact. In this view of the matter, there is no substantial question of law involved in this appeal.

6. Appeal is dismissed in limini.

(S.R.Sathe, J.)